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SAN DIEGO UNIFIED SCHOOL DISTRICT,
JAMES GOOD and JESUS MONTANA

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

KAYLA CASHMAN BY AND THROUGH
HER GUARDIAN AD LITEM,
BERNADETTE HILGEMAN; AND
STEPHEN CASHMAN, AN INDIVIDUAL,

Plaintiffs,

v.

SAN DIEGO UNIFIED SCHOOL
DISTRICT; JAMES GOOD,
INDIVIDUALLY; JESUS MONTANA,
INDIVIDUALLY, and DOES 1 through 20,

Defendants.

CASE NO. 08 CV 0519-BEN (POR)

**DEFENDANT JESUS MONTANA'S NOTICE
OF MOTION AND MOTION TO DISMISS
PURSUANT TO F.R.C.P. 12(b)(1), (6)**

[F.R.C.P. 12(b)(1),(6)]

DATE: October 20, 2008
TIME: 10:30 a.m.
COURTROOM.: 3
JUDGE: Hon. Roger T. Benitez

TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on August 4, 2008, at 10:30 a.m. or as such other
time as may be directed by the Honorable Roger T. Benitez in Courtroom 3 of the above-
entitled Court, located at 940 Front Street, San Diego, California, Defendant JESUS MONTANA
will and hereby does move the Court for an order pursuant to Federal Rule of Civil Procedure
12(b)(1) and (6) dismissing the first amended complaint of Plaintiffs KAYLA CASHMAN
("Ms. Cashman") and STEPHEN CASHMAN ("Mr. Cashman," and collectively with
Ms. Cashman, the "Plaintiffs") for lack of subject matter jurisdiction and failure to state a claim
upon which relief may be granted.

1 The motion will be based on this Notice of Motion and Motion, the Memorandum filed
2 herewith, the Request for Judicial Notice and the pleadings and papers filed herein, and such
3 other pleadings, evidence or argument as may be presented to the Court at or prior to the hearing
4 on this matter.

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6 DATED: September 2, 2008

HIGGS, FLETCHER & MACK LLP

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8 By: 

9 STEVEN J. COLOGNE, ESQ.
10 MICHAEL R. GIBSON, ESQ.
11 Attorneys for Defendants
12 SAN DIEGO UNIFIED
13 SCHOOL DISTRICT,
14 JAMES GOOD and JESUS MONTANA
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